

REMARKS

1. Summary of the office action

In the office action mailed July 14, 2009, (i) the Examiner provisionally rejected claims 67-83, 85, and 86 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 70-80 of co-pending Application No. 10/610,402, (ii) the Examiner stated claims 67-83, 85, and 86 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,112,206 (Morris) in view of U.S. Patent Application Publication No. 2001/0054087 (Flom), and (iii) the Examiner rejected claims 68-77 under 35 U.S.C. § 103 (a) as being unpatentable over Morris in view of Flom and U.S. Patent No. 6,611,740 (Lowrey). Applicant respectfully traverses these rejections.

2. Amendments and status of the claims

Applicant has amended claim 67. Claims 67-83, 85, and 86 are currently pending. Of the pending claims, claim 67 is independent.

3. Response to claim rejections based on obviousness-type double patenting

The Examiner provisionally rejected claims 67-83, 85, and 86 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 70-80 of co-pending Application No. 10/610,402. After the office action was mailed, Application No. 10/610,402 issued as U.S. Patent No. 7,583,401 on September 1, 2009.

Applicant submits herewith a *Terminal Disclaimer to Obviate a Double Patenting Rejection over a "Prior" Patent*, the "Prior" patent being U.S. Patent No. 7,583,401. Applicant submits that the terminal disclaimer overcomes the double patenting rejection of claims 67-83, 85, and 86. Applicant respectfully requests that the Examiner withdraw the double patenting rejections of claims 67-83, 85, and 86.

4. Response to claim rejections under 35 U.S.C. § 103

a. Claims 67, 78-81, and 86

The Examiner stated that claims 67-83, 85, and 86 are rejected under 35 U.S.C. § 102(e) as being anticipated by Morris in view of Flom. The Examiner then proceeded to discuss claims 67, 78-81, and 86 with respect to Morris and Flom. The Examiner did not reject claims 68-77 over the combination of Morris and Flom.

Since the anticipation rejections of claims 67, 78-81, and 86 were listed under a heading *Claim Rejections – 35 USC § 103*, and since the Examiner cited to multiple references (i.e., Morris and Flom) in making these rejections, Applicant assumes the Examiner rejected claims 67, 78-81, and 86 under 35 U.S.C. § 103(a) over Morris in view of Flom instead of being anticipated under 35 U.S.C. § 102(e) by Morris in view of Flom.

Applicant has amended independent claim 67 to clarify the interrelationship of the claimed features. Applicant submits that the art cited by the Examiner to reject claim 67 does not reasonably or logically lead to the innovative features recited in claim 67, as amended. At a minimum, Morris and Flom do not reasonably or logically lead to (i) a first wireless access device that communicates with a replicating device, wherein the replicating device is located on a movable land-based vehicle and receives replication information from a master device remote from the replicating device, and (ii) a user interface that displays a status of whether the replication information at the replicating device is up-to-date, possibly outmoded, or outmoded. These interrelated features come from Applicant's claims, not from the cited art. Thus, *prima facie* obviousness of claim 67 does not exist.

In rejecting claim 67, the Examiner stated that Morris teaches a vehicle diagnostic device, but the Examiner did not identify the vehicle diagnostic device allegedly taught by Morris.

Instead, the Examiner identified various portions of Morris that allegedly disclose the first wireless access device, the processor, the data storage, and the programming instructions stored at the data storage of the claimed vehicle diagnostic device. Thereafter, the Examiner stated that Morris does not teach a user interface that displays a status of whether the information replicated by the replicating device is up-to-date, possibly outmoded, or outmoded. To make up for the deficiency of Morris, the Examiner turned to Flom and, in doing so, identified various aspects of a portable device 94 disclosed by Flom.

Flom discloses that the portable device includes an output 94H that is operable to output a list of relevant and/or nearby restaurants to a display or an audio output, or a combination thereof. *See*, Flom, paragraph 0069, lines 23-26. Flom discloses that after a user selects a desired restaurant, details of an offer and/or details, descriptions and reviews of the restaurant may then be displayed to the user. *See*, Flom, paragraph 0067, lines 28-32. Flom discloses displaying all locations of interest on a map. *See*, Flom, paragraph 0063, lines 10-11. Flom discloses an offer is displayed to the user and the community user is given the opportunity to accept the offer or make an associated purchase via portable electronic device 94. *See*, Flom, paragraph 0065, lines 4-7. Flom also discloses a bar code or other type of code displayed on the screen of the portable device and capable of being read or scanned by a merchant. *See*, Flom, paragraph 0065, lines 13-15.

Even if it is assumed, for the sake of argument, that Morris is modified with Flom such that the various data displayable on the display of Flom is displayable on the data collection terminals disclosed by Morris, Applicant submits that the data collection terminals of Morris, as modified by Flom, do not disclose or suggest a user interface that displays a status of whether the

replication information at the replicating device is up-to-date, possibly outmoded, or outmoded, as recited in independent claim 67.

Furthermore, the Examiner clearly failed to establish *prima facie* obviousness of the claim 67 under M.P.E.P. § 2142, because, notwithstanding the length of the Examiner's remarks, the Examiner did not articulate reasoning with rational underpinnings to actually support the Examiner's conclusion of obviousness.

When discussing Flom in the rejection of claim 67, the Examiner stated the portable device 94 can input search requests and commands, searchable content packages may be cached on the portable device in intelligent cache 94C, and once a content package has been cached in cache 94C, subsequent user requests on portable device 94 will have local access to the updated cache information. The Examiner then stated that it would have been obvious to one of ordinary skill in the art at the time the invention was made, to implement, a user interface that displays a status of whether the information replicated by the replicating device is up-to-date, possibly outmoded, or outmoded, as it would eliminate the need to send requests to server 92 and download information each time a request is made.

Even if it is assumed, for the sake of argument, that the mobile access server (MAS) 331 disclosed by Morris was modified with the portable internet server 92 of Flom, and that the data collection terminals disclosed by Morris were modified to include the intelligent cache 94 C of the portable device 94 disclosed by Flom, Applicant submits that *caching data* from the modified mobile access server 331 *into the intelligent cache 94C of the modified data collection terminal* would not lead a person having ordinary skill in the art at the time of Applicant's invention to implement a user interface that displays a status of whether *the replication*

information at the replicating device is up-to-date, possibly outmoded, or outmoded, as recited in claim 67.

Because the Examiner has not established *prima facie* obviousness of claim 67, Applicant submits that claim 67 is allowable. Furthermore, without conceding the Examiner's assertions, regarding claims 78-81, and 86, Applicant submits that dependent claims 78-81, and 86 are allowable for at least the reason that they depend from allowable claim 67.

b. Claims 68-77

The Examiner rejected dependent claims 68-77 under 35 U.S.C. § 103 (a) as being unpatentable over Morris in view of Flom and Lowrey. According to 35 U.S.C. § 112, fourth paragraph, a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers. Since claims 68-77 depend from claim 67, Applicant submits that claims 68-77 are to be construed to incorporate by reference all the limitations of claim 67.

As stated above when discussing claim 67, Morris and Flom do not reasonably or logically lead to (i) a first wireless access device that communicates with a replicating device, wherein the replicating device is located on a movable land-based vehicle and receives replication information from a master device remote from the replicating device, and (ii) a user interface that displays a status of whether the replication information at the replicating device is up-to-date, possibly outmoded, or outmoded, as recited in claim 67. Applicant submits that Lowrey fails to make up for this deficiency of Morris and Flom.

Since Morris, Flom, and Lowrey do not reasonably lead to each and every limitation recited in claim 67, and since claims 68-77 are to be construed to incorporate by reference each and every limitation of claim 67, without conceding the Examiner's assertions regarding claims

68-77, Applicant submits that *prima facie* obviousness of claims 68-77 over Morris, Flom, and Lowrey clearly does not exist. According, Applicant submits that claims 68-77 are allowable.

5. Conclusion

Applicant believes that all of the pending claims have been addressed in this response. For the foregoing reasons, Applicant submits that claims 67-83, 85, and 86 are in condition for allowance. Therefore, Applicant respectfully requests favorable reconsideration and allowance of all the pending claims.

Respectfully submitted,

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Date: January 11, 2010

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